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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

10 | GEORGE MERCIER,

**Plaintiff,**

12 | v.

## 13 THE UNITED STATES OF AMERICA,

14 Defendants.

Case No. 2:06-CV-00493-KJD-GWF

## ORDER

16 On April 19, 2006, Plaintiff filed an Application for Leave to Proceed In Forma Pauperis  
17 (“IFP”) along with a complaint pursuant to 42 U.S.C. § 1983. On May 5, 2006, the Court entered an  
18 order granting Plaintiff’s IFP application but dismissing his complaint as frivolous and malicious and  
19 for failure to state a claim upon which relief can be granted. The Court, however, accorded Plaintiff  
20 leave to file an amended complaint within thirty days of the entry of the order. The Court warned  
21 Plaintiff that failure to comply with this order would result in the dismissal of this action. On June  
22 16, 2006, the Court’s mail was returned undeliverable.

23 The Court finds that dismissal is now warranted. First, Rule 41(b) of the Federal Rules of  
24 Civil Procedure permits a court to dismiss any action for failure to comply with the court's rules  
25 and/or orders to prosecute the action. The Court is required to weigh the following factors before  
26 dismissing an action under this rule: (1) the public's interest in expeditious resolution of litigation;

1 (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public  
2 policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.  
3 See Malone v. United States Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987). Plaintiff has failed to  
4 comply with the order entered on May 5, 2006. After having weighed these factors, the Court finds  
5 that dismissal is warranted pursuant to Rule 41(b).

6 Second, Local Rule of Special Proceedings and Appeals 2-2 ("LSR 2-2") directs a plaintiff to  
7 file written notice with the court of any change of address. LSR 2-2 also advises that failure to  
8 comply with this rule may result in dismissal of the action with prejudice. On June 16, 2006, the  
9 mail the Court addressed to Plaintiff was returned undeliverable. Moreover, Plaintiff has not filed  
10 anything since his initial filing on April 19, 2006. The Court therefore finds that dismissal is also  
11 warranted pursuant to LSR 2-2.

12 Accordingly, IT IS HEREBY ORDERED that the instant case is **DISMISSED WITHOUT**  
13 **PREJUDICE.**

14 DATED this 1st day of September 2006.

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Kent J. Dawson  
United States District Judge